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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/565,465 | 06/19/2006 | Li-Ying Yang | FDN-2794/CIP | 1913 |
| 7590 09/02/2008 | | | | |
| William J Davis Gaf Materials Corporation Legal Dept Bldg 8-2 1361 Alps Road Wayne, NJ 07470-3529 | | | EXAMINER AHMED, SHEEBA | |
| | | | ART UNIT 1794 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,465

Applicant(s)

YANG, LI-YING

Examiner

SHEEBA AHMED

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3 and 5 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CD/CD)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Amendments to claim 1 have been entered in the above identified application. Claim 4 is cancelled. **Claims 1-3 and 5 are pending.**

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Glogovsky et al. (US 6,743,864.)

Glogovsky et al teach a polyolefin composition including 15-40wt% of a crystalline polypropylene, 60-85wt% of an elastomeric fraction such as ethylene-butene copolymer, both of which may be produced by metallocene catalysts, and up to 50wt% of conventional additives, wherein the polyolefin composition may be utilized to produce roofing membranes of 5 to 200 mils that may be scrim reinforced (See Abstract; Column 5; Column 7, lines 19-30; and Column 8, lines 14-60). Glogovsky et al. specifically state in the Background of the Invention section that sheeting materials for roofing applications comprising highly crystalline thermoplasticity promoters, such as

high density polyethylene (HDPE) are known. With regards to the heat seam peel strength and cold brittleness point limitations, the Examiner takes the position that the membrane taught by Glogovsky et al. would inherently possess the same properties as instantly claimed given that the membrane taught by Glogovsky et al. and that of the claimed invention comprise the same materials. Furthermore, with regards to the limitation that the polyolefin has a molecular weight distribution (MWD) of about 2 to 2.5, the Examiner takes the position that polyolefins taught by Glogovsky et al. must have the same molecular weight distribution given that both are prepared by the same process.

Response to Arguments

3. Applicant's arguments filed June 2, 2008 have been fully considered but they are not persuasive. Applicants traverse the rejection of claims 1-3 and 5 under 35 U.S.C. 102(e) as being anticipated by Glogovsky et al. (US 6,743,864) and submit that independent claim 1 now recites a thermoplastic polyolefin (TPO) roofing membrane comprising cap and base layers made of about 10-50% additives including a crystallinity enhancing polymer comprising high density polyethylene (HDPE). Applicants further state that Glogovsky et al. do not teach roofing membranes comprising a crystallinity enhancing polymer and instead teaches that high levels of crystallinity are undesirable in its roofing membranes, as it may lead to "less thermal dimensional stability."

However, the Examiner disagrees. Glogovsky et al. specifically state in the Background of the Invention section that sheeting materials for roofing applications

comprising highly crystalline thermoplasticity promoters, such as high density polyethylene (HDPE) are known.

Hence, the above rejection is maintained.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEEBA AHMED whose telephone number is (571)272-1504. The examiner can normally be reached on Monday-Friday from 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sheeba Ahmed/
Primary Examiner, Art Unit 1794